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(Del. Rev. 11/14) Pro Se Prisoner Civil Rights Complaint

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

Oscar Martinez 181370

(In the space above enter the full name(s) of the plaintiff(s).)

-against-

SEE ATTACHMENT

Civ. Action No. 1:17-cv-00574-LPS
(To be assigned by Clerk's

Office)
AMENDED
COMPLAINT
(Pro Se Prisoner)

Jury Demand?

☒ Yes

☐ No

(In the space above enter the full name(s) of the defendant(s).

If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Section IV. Do not include addresses here.)

NOTICE

Federal Rule of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

~~Attachment~~
civil cover sheet continued

Defendants

John Carnay

Matthew Denn

Jan R. Jurden

Rep. James Johnson

Rep. Daniel B. Short

Rep. Charles Potter Jr

Sen. Gregory F. Lovelle

Sen. Nicole Moore

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I. COMPLAINT

Indicate below the federal legal basis for your claim, if known. This form is designed primarily for pro se prisoners challenging the constitutionality of their conditions of confinement, claims which are often brought under 42 U.S.C. § 1983 (against state, county, or municipal defendants) or in a "Bivens" action (against federal defendants).

Check one:

- ☒ 42 U.S.C. § 1983 (state, county, or municipal defendants)
- ☐ Action under *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971) (federal defendants)

II. PLAINTIFF INFORMATION

Martinez, Oscar
Name (Last, First, MI) Aliases

00181370

Prisoner ID #

James T. Vaughn Correctional Center
Place of Detention

1181 Paddock Road Newcastle County
Institutional Address

Smyrna Delaware 19977
County, City State Zip Code

III. PRISONER STATUS

Indicate whether you are a prisoner or other confined person as follows:

- ☐ Pretrial detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☒ Convicted and sentenced state prisoner
- ☐ Convicted and sentenced federal prisoner

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IV. DEFENDANT(S) INFORMATION

Please list the following information for each defendant. If the correct information is not provided, it could result in the delay or prevention of service. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant 1:

SEE ATTACHMENT

Name (Last, First)

Current Job Title

Current Work Address

County, City

State

Zip Code

Defendant 2:

Name (Last, First)

Current Job Title

Current Work Address

County, City

State

Zip Code

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Defendant(s) Continued

Defendant 3:

Name (Last, First)

Current Job Title

Current Work Address

County, City

State

Zip Code

Defendant 4:

Name (Last, First)

Current Job Title

Current Work Address

County, City

State

Zip Code

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V. STATEMENT OF CLAIM

Place(s) of
occurrence:Legislative Hall Dover DE

Date(s) of occurrence:

April 13, 2017

State which of your federal constitutional or federal statutory rights have been violated:

my rights under the 5th, 8th, 9th, and 14th
Amendments to the U.S. Constitution has been violated

State here briefly the FACTS that support your case. Describe how each defendant was personally involved in the alleged wrongful actions, state whether you were physically injured as a result of those actions, and if so, state your injury and what medical attention was provided to you.

FACTS:

What
happened to
you?

On July 19, 2016 S.B. 163 was enacted that effected all inmates who were sentenced as habitual offenders per title 11 Del. § C. 4214 (a) and (b) prior to July 19, 2016. On April 13, 2017 H.B. 18 was enacted to Amend S.B. 163 of title 11 Del. § C. 4214 relating to habitual offenders. This version of Bill is unconstitutional because it only applies to habitual offenders who were sentenced to a minimum mandatory of Life per title 11 Del. C. 4214 (b) prior to July 19, 2016. Anyone sentenced under subsection (a) of title 11 Del. C. 4214 prior to April 13, 2017 no longer qualifies to have review of sentence because

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Who did
what?

the Judges had Discretion to give any sentence up to Life as long as the statutory minimum was given. I Filed prose motion for Review of Sentence per title 11 Del.C. 4214 (f) which was summarily dismissed without Prejudice and Denied request to proceed prose. I believe S.B.163 was correct in it's original form because all class of inmates sentenced as habitual offenders were effected Regardless to title 11 Del.C. 4214 sub-sections (a) and (b) prior to July 19, 2016. Example when Death penalty was ruled unconstitutional it effected every inmate on Death Row regardless of their circumstances and the same principles should apply to habitual offenders no matter what subsections they fall into or amount of time the individual person has regardless if the Judges had discretion on a sentence or not. If I was given a life sentence under title 11 Del.C. 4214 (a) I would not qualify for Review of sentence per Amendment H.B.18 April 13, 2017 signed by Governor John Carney. "Also Adding the new Law is discriminatory based on it singling out a specific "class" of peoples"

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Was anyone
else
involved?

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VI. ADMINISTRATIVE PROCEDURES

WARNING: Prisoners must exhaust administrative procedures before filing an action in federal court about prison conditions. 42 U.S.C. § 1997e(a). Your case may be dismissed if you have not exhausted your administrative remedies.

Is there a grievance procedure available at your institution?

☒ Yes☐ No

Have you filed a grievance concerning the facts relating to this complaint?

☐ Yes☒ No

If no, explain why not:

NOT applicable

Is the grievance process completed?

☐ Yes☒ No

If no, explain why not:

not applicable

VII. RELIEF

State briefly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

Declare H.B. 18 unconstitutional and Reinstate S.B. 163 as it was introduced and signed on July 19, 2016 By former Governor Jack Markell and grant me Relief to any extant possible per Directive of Superior Court Spec. R. 2017-1

(12)

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IX. PLAINTIFF'S DECLARATION AND WARNING

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending or modifying existing law; and (3) complies with the requirements of Rule 11.

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Plaintiff must sign and date the complaint and provide prison identification number and prison address.

9-3-2017
Dated

Oscar Martinez 181370
Plaintiff's Signature

Martinez, Oscar 181370
Printed Name (Last, First, MI)

Prison Identification #

1181 Paddock Road Smyrna DE 19977
Prison Address City State Zip Code

Plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.